

# 1115 Renewal Waiver

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## End Stage Renal Disease

6/30/2015

This 1115 Demonstration waiver renewal requests continuation of the current authority to cover individuals with end stage renal disease who meet the applicable eligibility criteria.

## Table of Contents

Section 1: Program Description .....	3
1.1 Summary .....	3
1.2 Demonstration Purpose.....	4
1.3 Demonstration Hypotheses .....	4
1.4 Demonstration Area.....	5
1.5 Demonstration Timeframe .....	5
1.6 Demonstration Impact to Medicaid and CHIP .....	5
Section 2: Demonstration Eligibility.....	5
2.1 Eligibility Groups .....	6
2.2 Eligibility Standards and Methods .....	7
2.3 Enrollment Limits .....	8
2.4 Projected Eligibility and Enrollment.....	8
2.5 Long-Term Services and Supports.....	8
2.6 Changes to Eligibility Procedures .....	8
2.7 2014 Eligibility .....	8
Section 3: Benefits .....	8
3.1 Benefit Chart .....	8
3.2 Section 1937 Alternative Benefit Plans.....	9
3.3 Benefit Charts .....	9
3.4 Long-Term Services and Supports.....	9
3.5 Premium Assistance .....	9
Section 4: Cost Sharing .....	9
4.1 Premiums .....	9
4.2 Copayments, Coinsurance and Deductibles .....	9
4.3 Cost Sharing Justification .....	10
4.4 Cost Sharing Exemptions.....	10
Section 5: Delivery System and Payment Rates for Services .....	10
5.1 Delivery System Reforms .....	10
5.2 Delivery System Type .....	10
5.3 Delivery System Table .....	10
5.4 Managed Care .....	10

5.5 Excluded Services .....	10
5.6 Long-term Services and Supports .....	10
5.7 Fee-for-service .....	11
5.8 Capitated Payments .....	11
5.9 Quality .....	11
Section 6: Implementation of the Demonstration.....	11
6.1 Implementation Schedule .....	11
6.2 Enrollment.....	12
6.3 Managed Care .....	12
Section 7: Demonstration Financing and Budget Neutrality .....	12
Section 8: List of Proposed Waivers and Expenditure Authorities .....	12
Section 9: Public Comment Period.....	13
9.1 Summary of Public Comments.....	13
9.2 Tribal Consultation .....	13
9.2 State Response.....	14
Section 10: Demonstration Administration .....	14
Appendix A: Public Notice.....	15
Appendix B: Tribal Consultation .....	19

## **Section 1: Program Description**

This demonstration preserves dual coverage - Medicaid secondary health insurance coverage - for individuals on Medicare who would otherwise be unable to access kidney transplant services. The State seeks to extend existing authority to provide continued Medicaid coverage to approximately 350 dually eligible individuals with end stage renal disease (ESRD) currently receiving secondary coverage under Healthy Indiana Plan (HIP “1.0”) 1115 expenditure authority, as reauthorized by the Centers for Medicare and Medicaid Services (CMS) via a letter to Indiana Medicaid on November 14, 2014. The majority of these individuals will transition to the 1915(i) ESRD State Plan option that begins July 1, 2016. The State also seeks the authority to preserve supplemental Medicaid coverage for individuals enrolled in the ESRD 1115 as of June 30, 2016 who are not eligible for the 1915(i) ESRD option and are otherwise unable to purchase supplemental health insurance coverage. Without this waiver an estimated 350 Medicare-eligible individuals will lose their Medicaid secondary coverage and risk losing access to kidney transplants.

### **1.1 Summary**

In 2014, Indiana transitioned from a 209(b) state that operated with state defined disability eligibility criteria to a 1634 state that accepts the SSA disability determinations as Medicaid disability determinations. As part of this transition, Indiana eliminated its mandatory spend down program and increased the income eligibility threshold for the aged, blind and disabled to the federal poverty level (FPL). Additionally, the State increased income eligibility thresholds for the Medicare Savings Program to 150 percent FPL for Qualified Medicare Beneficiaries (QMB), 170 percent FPL for Specified Low-Income Medicare Beneficiaries (SLMB) and 185 percent FPL for Qualified Individuals (QI). Individuals who lost access to coverage through the spend down program were referred to other coverage options including the Federal Health Insurance Marketplace (Marketplace) and Medicare supplemental plans.

With the 1634 transition, there were approximately 350 individuals with ESRD at risk of losing access to supplemental coverage and potentially kidney transplant services. These individuals were dually eligible for Medicare and Medicaid, under age 65, and had household income over 150 percent FPL. Individuals with Medicare usually have access to either Medigap or Medicare Advantage plans for supplemental coverage. However, in states where there is no guarantee issue for enrollees age 65 and under for Medigap plans, health insurers that sell these plans can rate based on health conditions. Health insurers selling Medigap plans will not sell plans to individuals with ESRD who are under 65 years old. Medicare Advantage plans exclude individuals with ESRD from enrolling in these plans. In some states there are Special Needs Plans under Medicare Advantage that cover those with ESRD, however, Indiana has no such plans. Individuals eligible for Medicare also cannot access individual health insurance market policies that do not rate based on health conditions because insurers will not sell individual market plans to individuals with Medicare due to the federal prohibition on duplicative benefits being sold to Medicare enrollees. Since Indiana is not a state that requires guarantee issue for individuals under age 65, individuals with ESRD have no access to supplemental coverage. Medicare covers 80 percent of their outpatient costs, leaving the patient responsible for 20 percent of the cost. ESRD is a high cost condition, and this patient responsibility portion means that without access to supplemental coverage individuals with ESRD must prove that they are financially capable of funding the cost of the transplant and ongoing care to be eligible to receive a transplant. Individuals with ESRD who were previously on spend down and enrollees added

after the spend down program closed who have household income between 150 percent and 300 percent FPL have low resources and income levels, meaning that without supplemental coverage they will not be financially eligible to receive transplants and will likely be moved to “inactive” on hospital transplant lists. Without a kidney transplant, individuals with ESRD would likely need to continue renal dialysis indefinitely. This results in diminished quality of life, increased unemployment, and potential loss of life for impacted enrollees. Individuals who have a successful kidney transplant, however, will no longer be considered to have ESRD, will subsequently have new health insurance purchasing options, and will no longer need the supplemental coverage through this ESRD 1115 waiver.

In May 2014, CMS authorized continued coverage for approximately 350 individuals on a temporary basis through 1115 waiver authority. Since this authorization, the State has been developing a permanent solution to provide eligibility to otherwise Medicaid-ineligible individuals with ESRD through 1915(i) State Plan authority. The State is seeking an extension of the 1115 waiver authority (ESRD 1115) until the 1915(i) ESRD program is fully operational. The state is currently preparing to implement the 1915(i) program. Initial enrollment for the 1915(i) ESRD will begin July 1, 2016, and all ESRD 1115 enrollees who qualify for the 1915(i) ESRD will be transitioned by October 1, 2016. However, there will be some individuals eligible under the ESRD 1115 who will be ineligible for the 1915(i) ESRD program. The State estimates this will impact up to 50 individuals, including individuals who either do not meet the 1915(i) ESRD needs-based criteria or who exceed the 1915(i) ESRD income threshold of 300 percent FPL. Therefore, to provide supplemental coverage and to ensure placement on kidney transplant lists, the State requests authority to continue coverage for individuals who are enrolled under the ESRD 1115 as of July 1, 2016 but who are ineligible to transition to the 1915(i) ESRD program once it is fully operational. Beginning July 1, 2016, when the 1915(i) ESRD program becomes operational, the State will no longer accept new enrollees under the ESRD 1115 waiver. At such time, all new applicants with ESRD who are otherwise Medicaid-ineligible may seek for coverage through the 1915(i) ESRD program.

### **1.2 Demonstration Purpose**

The purpose of this demonstration is to preserve coverage for individuals with ESRD who cannot access supplemental health insurance coverage for their existing Medicare coverage. Continued Medicaid supplemental coverage ensures Medicare wrap-around coverage as well as continued access to kidney transplant services.

Eligible individuals typically have Medicare coverage but are unable to purchase supplemental insurance coverage and are otherwise ineligible for Medicaid. Without supplemental coverage, these individuals are removed from kidney transplant waiting lists as hospital financial policies forbid the costly procedure in the absence of sufficient health insurance coverage or personal financial resources. Offering supplemental coverage to eligible individuals will close an anticipated coverage gap and will ensure access to services, potential recovery from ESRD through a kidney transplant, and support their ability to seek gainful employment.

### **1.3 Demonstration Hypotheses**

The ESRD 1115 waiver will investigate the following hypotheses:

- a. ESRD 1115 waiver enrollees will maintain access to kidney transplant waiting lists.
- b. ESRD 1115 waiver enrollees will access kidney transplants, ending their diagnosis of ESRD and increasing their access to alternative forms of health insurance coverage.

To test these hypotheses, the ESRD 1115 waiver will utilize the following evaluation measures:

- Track waiver enrollment.
- Track waiver enrollees who are on the transplant list.
- Track how many on the waiver receive a kidney transplant.
- Track how many end coverage on the waiver due to no longer having ESRD diagnosis.

#### **1.4 Demonstration Area**

This demonstration will apply to eligible individuals across the state.

#### **1.5 Demonstration Timeframe**

The State requests a three year demonstration renewal period, effective January 1, 2016 through December 31, 2018.

#### **1.6 Demonstration Impact to Medicaid and CHIP**

This demonstration will not impact or modify components of Indiana's Medicaid or CHIP programs outside of eligibility or cost sharing for individuals eligible under the waiver.

### **Section 2: Demonstration Eligibility**

There are currently two distinct eligibility groups enrolled and receiving coverage through the ESRD 1115 authority.

- 1) The first group includes individuals enrolled in both Medicaid spend down and Medicare as of May 31, 2014, had income over 150 percent FPL, and were losing access to spend down due to Indiana's transition to a 1634 state. This group met the spend down eligibility requirements in effect under the State's 209(b) rules as of May 31, 2014, which did not impose an upper income limit. These individuals are referred to as "former spend down enrollees" in this waiver renewal request.
- 2) In addition to transitioning former spend down enrollees to the ESRD 1115 effective June 1, 2014, new enrollees were also permitted. However, an upper income limit of 300 percent FPL was added for new enrollees. This income limit aligns with the limit for the 1915(i) ESRD program that is currently under development. This income limit applies to all ESRD 1115 enrollees who were not on spend down as of May 31, 2014. Such enrollees are referred to as "new enrollees" in this waiver request.

Beginning July 1, 2016, no new individuals will be enrolled into the ESRD 1115. At this time, individuals with ESRD may be eligible for enrollment under the 1915(i) ESRD program and may apply for Medicaid coverage through that program instead. However, some individuals enrolled in the ESRD 1115 will not

qualify for the ESRD 1915(i) due to either income in excess of 300 percent FPL (i.e., former spend down enrollees) or not meeting the 1915(i) needs-based criteria. To preserve their access to supplemental Medicaid coverage, these individuals will have continued coverage on the ESRD 1115 through December 2018.

To gain full coverage under the ESRD 1115, each month all enrolled individuals, regardless of the enrollment dates, must incur medical expenses which bring their income to the Supplemental Security Income (SSI) federal benefit rate (FBR) by meeting their ESRD liability.

## 2.1 Eligibility Groups

Populations		
Waiver Time Frame	Group	Eligibility Criteria
January 1, 2016 to June 30, 2016	Former Spend Down Enrollees	<ul style="list-style-type: none"> <li>• <b>Enrolled in Medicaid spend down effective May 31, 2014</b></li> <li>• Have Medicare</li> <li>• Meet resource limit of \$1,500 for an individual and \$2,250 for a couple</li> <li>• Over 150 percent FPL</li> <li>• Have a diagnoses of ESRD</li> <li>• Not institutionalized</li> <li>• Meet all other Medicaid eligibility criteria</li> </ul>
	New Enrollees	<ul style="list-style-type: none"> <li>• <b>Have income between 150 percent and 300 percent FPL</b></li> <li>• Have Medicare</li> <li>• Are diagnosed with ESRD</li> <li>• Have resources less than \$1,500 for an individual or \$2,250 for a couple</li> <li>• Are not institutionalized</li> <li>• Meet all other Medicaid eligibility criteria</li> </ul>
July 1, 2016 to December 31, 2018	ESRD 1115 Enrollees Not Eligible for 1915(i) ESRD	<ul style="list-style-type: none"> <li>• Are enrolled in the ESRD 1115 effective June 30, 2016</li> <li>• Are found not eligible for the 1915(i) ESRD due to either: <ul style="list-style-type: none"> <li>○ Having income over the 300 percent FPL limit <i>or</i></li> <li>○ Not meeting the needs-based criteria</li> </ul> </li> </ul>

## 2.2 Eligibility Standards and Methods

As described above, this ESRD 1115 will consist of two eligibility groups when it is renewed on January 1, 2016: 1) former spend down enrollees and 2) new enrollees. Both groups who have ESRD 1115 eligibility as of the waiver renewal date will maintain seamless Medicaid coverage with no administrative action required due to the waiver renewal. Annual eligibility redeterminations will continue to be required for enrollees. Former spend down enrollees will maintain their ESRD 1115 eligibility during their annual redetermination if they meet the following criteria:

- Meet the eligibility criteria in effect May 31, 2014 for the aged, blind and disabled groups, including the use of a spend down.
- Continue to have a physician-verified ESRD diagnosis.

New enrollees are eligible for ESRD 1115 if they meet the following criteria, aligned with 1915(i) ESRD criteria:

- Have been diagnosed with ESRD.
- Have household income below 300 percent FPL.
- Have resources below \$1,500 for an individual or \$2,250 for a couple.
- Meet all other Medicaid eligibility criteria.

New ESRD 1115 applications will be accepted through June 30, 2016. Effective July 1, 2016 the ESRD 1115 will cease taking new applications; instead individuals will be evaluated for 1915(i) ESRD eligibility. The ESRD 1115 will continue to cover waiver enrollees as they transition to the 1915(i) ESRD program – anticipated to take place between July 1, 2016 and September 30, 2016. During this time, potential enrollees will submit an application and complete an in-person assessment. The State will assess these applications for 1915(i) ESRD eligibility. An individual's 1915(i) ESRD coverage effective date will be based on when he or she applies for the program and is determined eligible. As of October 1, 2016, all individuals eligible for 1915(i) ESRD will have coverage through that program. After the transition is complete, the ESRD 1115 will offer continued coverage through December 31, 2018, for those enrolled in the ESRD 1115 as of June 30, 2016 who were not eligible for the 1915(i) ESRD due to income over 300 percent FPL or not meeting the 1915(i) ESRD needs-based criteria. To maintain ESRD 1115 eligibility, individuals must continue to meet the applicable eligibility criteria.

In late spring 2016, the State will begin sending notices to all individuals on the ESRD 1115 waiver with income under 300 percent FPL. These notices will advise them of the 1915(i) ESRD program and the application process, as documented in the State Plan. Reminder notices will be sent in late summer 2016 for any individuals who have not completed an application by that time.

Individuals with income under 300 percent FPL who have not applied for the 1915(i) ESRD by September 30, 2016, will have their eligibility under the ESRD 1115 terminated and eligibility for another Medicaid eligibility category reviewed. Individuals determined ineligible for another Medicaid category will be discontinued with appeal rights.

ESRD 1115 enrollees who do apply for the 1915(i) ESRD by September 30, 2016, but are found ineligible either due to income or failure to meet the needs-based criteria will be assessed for eligibility under this



demonstration and will have continued coverage, provided they continue to meet the applicable eligibility criteria.

### **2.3 Enrollment Limits**

There are no enrollment limits through June 30, 2016. Individuals not covered under the ESRD 1115 as of June 30, 2016, will not be eligible for this demonstration. At such time, all new Medicaid applicants with ESRD who are otherwise Medicaid ineligible may apply for coverage through the 1915(i) ESRD program.

### **2.4 Projected Eligibility and Enrollment**

The ESRD 1115 is projected to cover approximately 350 individuals from January 2016 to June 2016. These individuals include both those currently covered and potential new enrollees. After June 2016, approximately 300 individuals are expected to transition to the 1915(i). Up to 50 individuals are expected to remain enrolled on the ESRD 1115 as of October 2016, because they have income above 300 percent FPL or they do not meet the 1915(i) needs-based criteria. By the end of the demonstration this population is expected to decrease by approximately half due to transplant, mortality, and no longer meeting income and needs-based criteria limits. Current projections indicate that 27 individuals will be enrolled in the ESRD 1115 in December 2018. These projections are based on current enrollment and expected 1915(i) eligibility. Projections are detailed in the attached Milliman, Inc. report.

### **2.5 Long-Term Services and Supports**

Individuals eligible under this waiver do not qualify for long-term services and supports through either a home and community-based services waiver or a nursing facility, as described in the State's original 1115 expenditure authority authorized in May 2014 and extended in November 2014. Therefore, post-eligibility treatment of income and spousal impoverishment rules are not applicable.

### **2.6 Changes to Eligibility Procedures**

This demonstration will not change eligibility procedures.

### **2.7 2014 Eligibility**

The State is not seeking to make any eligibility changes as a part of this demonstration.

## **Section 3: Benefits**

Individuals eligible under this demonstration will be eligible for State Plan benefits after they meet their ESRD liability, a cost sharing methodology described in Section 4.

### **3.1 Benefit Chart**

<b>Benefit Package Chart</b>	
<b>Eligibility Group</b>	<b>Benefit Package</b>
Former Spend Down Enrollees	Full State Plan – Package A
New Enrollees	
ESRD 1115 Enrollees Not Eligible for 1915(i) ESRD	

### 3.2 Section 1937 Alternative Benefit Plans

This demonstration does not cover individuals on alternative benefit plans.

### 3.3 Benefit Charts

This demonstration does not cover benefits outside of the State Plan.

### 3.4 Long-Term Services and Supports

Individuals eligible under the ESRD 1115 do not qualify for long-term services and supports through either a home and community-based services waiver or a nursing facility, as described in the State's original 1115 expenditure authority authorized in May 2014 and extended in November 2014.

### 3.5 Premium Assistance

Premium assistance for employer-sponsored coverage will not be available through the demonstration.

## Section 4: Cost Sharing

ESRD 1115 enrollees will be eligible for all medically necessary Medicaid covered services after meeting an ESRD liability, as authorized under the State's original 1115 expenditure authority in May 2014 and extended in November 2014. The liability will be calculated using spend down methodology based on incurred medical costs. Individuals who incur medical expenses that bring their income to the Supplemental Security Income (SSI) federal benefit rate (FBR) will have no further incurred costs subject to the ESRD liability, but will have some cost sharing as described below.

### 4.1 Premiums

This demonstration does not impose premiums on enrollees.

### 4.2 Copayments, Coinsurance and Deductibles

Once the ESRD liability, which is calculated using spend down methodology in effect under the State's 209(b) methodologies in place on May 31, 2014, is met, ESRD 1115 enrollees will be eligible for full Medicaid benefits and will be subject to State Plan cost sharing as outlined in the following table.

Copayment amounts

Service	Copayment Amount	
Transportation	\$0.50 each one-way trip	Transportation services that pay \$10 or less
	\$1 each one-way trip	Transportation services that pay \$10.01 to \$50
	\$2 each one-way trip	Transportation services that pay \$50.01 or more
Pharmacy	\$3	
Non-Emergency Use of the ED	\$3	

ESRD 1115 enrollees will not spend more than 5 percent of their household income on State Plan cost sharing requirements.

#### 4.3 Cost Sharing Justification

This demonstration preserves the benefits and cost sharing structure this population would have experienced as of May 2014 when the State operated under 209(b) authority. The demonstration will provide supplemental health insurance coverage to individuals above 150 percent FPL who are not eligible for any other form of supplemental coverage and would otherwise be removed from kidney transplant wait lists. To prevent removal from the transplant list and support access to coverage, this demonstration will serve as a supplemental coverage using spend down rules in place on May 31, 2014.

#### 4.4 Cost Sharing Exemptions

No individuals enrolled under the waiver will be exempt from the ESRD liability. This is in alignment with the methodology authorized by CMS when Indiana was a 209(b) state, and as extended for certain enrollees with ESRD in May 2014 and November 2014. However, individuals will not be subject to State Plan copayments once they have reached the 5 percent of household income limit.

### Section 5: Delivery System and Payment Rates for Services

Demonstration enrollees will receive services through a fee-for-service delivery system. Providers will receive payment in accordance with State Plan reimbursement methodologies once an enrollee meets his or her ESRD liability.

#### 5.1 Delivery System Reforms

Not applicable.

#### 5.2 Delivery System Type

This demonstration will utilize a fee-for-service delivery system.

#### 5.3 Delivery System Table

Eligibility Group	Delivery System	Authority
Former Spend Down Enrollees	Fee-for-service	State Plan
New Enrollees		
ESRD 1115 Enrollees Not Eligible for 1915(i)		

#### 5.4 Managed Care

Not applicable. This demonstration will not utilize a managed care delivery system.

#### 5.5 Excluded Services

Services excluded by the State Plan will be excluded for demonstration participants. There will be no difference in services covered by the State Plan and services covered by this demonstration.

#### 5.6 Long-term Services and Supports

Individuals eligible under the ESRD 1115 do not qualify for long-term services and supports through either a home and community-based services waiver or a nursing facility, as described in the State's original 1115 expenditure authority authorized in May 2014 and extended in November 2014.

#### **5.7 Fee-for-service**

Providers will receive payment in accordance with State Plan reimbursement methodologies once an enrollee meets his or her ESRD liability.

#### **5.8 Capitated Payments**

Not applicable. This demonstration will not utilize capitated payments.

#### **5.9 Quality**

Not applicable. This demonstration will not utilize quality-based supplemental payments.

### **Section 6: Implementation of the Demonstration**

This demonstration is an extension of coverage for individuals with ESRD ineligible for other supplemental coverage. The population covered by this demonstration has been covered through 1115 authority effective June 2014. Individuals initially covered by this ESRD 1115 who are eligible for the 1915(i) ESRD program will transition to that coverage when the program becomes available starting July 1, 2016. Individuals covered by this demonstration as of June 30, 2016 who are determined ineligible for the 1915(i) ESRD program but who continue to meet the applicable ESRD 1115 eligibility criteria would continue to be covered under this demonstration.

#### **6.1 Implementation Schedule**

This waiver is a renewal of authority that currently covers this population. On January 1, 2016, individuals covered by the current 1115 waiver authority as of December 31, 2015 will continue their coverage on this ESRD 1115. The State will continue to accept new applications and enroll eligible individuals through June 30, 2016. Beginning July 1, 2016, the State will no longer accept new applications for the ESRD 1115, but will begin to transition eligible individuals to the State's 1915(i) ESRD program.

To prepare individuals for the transition to the 1915(i) ESRD program, in late spring 2016, the State will begin sending notices to all individuals on the ESRD 1115 with income under 300 percent FPL, advising them of the new 1915(i) ESRD program and the application process, as documented in the State Plan. Reminder notices will be sent in late summer 2016 for any individuals who have not completed an application by that time. Individuals who have not applied by September 30, 2016, will have their eligibility under the ESRD 1115 terminated and eligibility for another Medicaid eligibility category reviewed. Individuals determined ineligible for another Medicaid category will be discontinued and informed of their appeal rights. Individuals who do apply for the 1915(i) ESRD but are found ineligible due to income or failure to meet the needs-based criteria will be assessed for continued eligibility under this demonstration.

For individuals on the ESRD 1115 who have a household income above 300 percent FPL, the State will determine if they had a recent kidney transplant, as evidenced by a medical claim submitted to the State for a transplant. Any such identified individuals will be sent a request for physician verification of the

continued ESRD diagnosis. Individuals with income over 300 percent FPL who no longer have an ESRD diagnosis will be evaluated for potential eligibility under another Medicaid aid category. If ineligible for another category, they will be sent a termination notice with appeal rights.

## **6.2 Enrollment**

This demonstration seeks to preserve benefits currently provided under 1115 expenditure authority, as reauthorized by CMS on November 14, 2014. Individuals enrolled under this authority as of December 31, 2015 will be automatically enrolled in this ESRD 1115 to continue their coverage. Individuals who had not been covered under current ESRD 1115 waiver authority as of December 31, 2015 may still enroll in the ESRD 1115 between January 1 and June 30, 2016. New enrollees must meet the applicable ESRD 1115 eligibility criteria. Applicants may request consideration under this criteria during their interview, or their dialysis or transplant provider may complete the request for consideration when the individual is filing his/her application for Indiana Health Coverage Programs. Dialysis and transplant centers that serve Indiana Medicaid enrollees are aware of the ESRD 1115 and the process for requesting eligibility consideration under this program.

Beginning July 1, 2016, individuals with income under 300 percent FPL covered by this ESRD 1115 will be assessed for 1915(i) ESRD program eligibility. These individuals will receive a notice advising them of the need to complete an in-person assessment with an ESRD Assessor Entity as described in the State Plan. Those who complete the assessment process and are found to not qualify for the 1915(i) ESRD will be automatically assessed for eligibility under this demonstration. After this date no new individuals will be enrolled into the demonstration, and the ESRD 1115 will only offer continued enrollment to those who were enrolled as of June 30, 2016, continue to meet the applicable eligibility criteria, and were not eligible for the 1915(i) ESRD.

## **6.3 Managed Care**

Not applicable. This demonstration will not include contracts with managed care entities.

## **Section 7: Demonstration Financing and Budget Neutrality**

Please see the attached documents prepared by Milliman detailing financing and budget neutrality.

## **Section 8: List of Proposed Waivers and Expenditure Authorities**

**Amount, Duration and Scope of Services – Section 1902(a)(10)(B):** To the extent necessary to enable the State to provide State Plan benefits only after an individual meets an ESRD liability, calculated using spend down methodologies.

**Cost-Sharing Requirements – Section 1902(a)(14) related to provisions in section 1916:** To the extent necessary to enable the State to impose a spend down methodology based on incurred medical costs. Individuals who incur medical expenses that bring their income to the Supplemental Security Income (SSI) federal benefit rate (FBR) will have no further incurred costs subject to the ESRD liability.

**Comparability – Section 1902(a)(17):** To the extent necessary to enable the State to apply a spend down methodology based on incurred medical costs.

## **Section 9: Public Comment Period**

The Indiana Family and Social Services Administration (FSSA) held a public comment period for this waiver renewal from May 20, 2015 through June 19, 2015 pursuant to 42 CFR 431.408, inclusive of public hearings. A copy of the full public notice that announced the two public hearings is included in Appendix A of this waiver application. The notice was posted on the agency's website on a page dedicated to providing information regarding the ESRD 1115 program at <http://www.in.gov/fssa/4898.htm>. In addition, notice was also published in the Indiana Register on May 20, 2015, and sent via email to Indiana Medicaid ESRD providers, including dialysis centers and transplant centers. The notice provided the option for any individual, regardless of whether he/she attended the public hearing, to submit written feedback to the State by email or by USPS mail. Electronic copies of all documents related to the ESRD 1115 waiver application were also available on the website and hard copies were available for public review at the FSSA offices.

In accordance with the notice, public hearings were conducted on May 28 and June 2, 2015 as scheduled and publicized, at the Indiana Government Center Conference Facilities and the Indiana State House. One individual testified regarding the proposal on May 28, 2015, and no individuals testified on June 2, 2015. The hearings were made available to the public via a live, free webcast.

On May 21, 2015, FSSA presented this 1115 ESRD application to the Medicaid Advisory Committee, the State's Medical Care Advisory Committee that operates in accordance with 42 CFR 431.12.

### **9.1 Summary of Public Comments**

The State received two written comments and one verbal comment via public hearing testimony. All comments received were in support of the waiver. Two comments were from Indiana hospitals providing kidney transplants. These comments indicated the waiver was a life-saving measure which provides services the target population would otherwise have been unable to afford. Confirmation was also sought that the waiver would continue to provide all Medicaid covered benefits, versus ESRD services only. The third comment was also supportive of the waiver and recommended two changes to the eligibility rules for the program. This included increasing the resource limit to \$2,000 for a single person and \$3,000 for a married couple and requiring enrollees to incur medical expenses to bring their income to 150% or 100% FPL rather than to the supplemental security income (SSI) federal benefit rate.

Two questions were posed at the Medicaid Advisory Committee meeting related to program structure. One individual asked if there was a capped number of slots, as in 1915(c) waivers. The other individual inquired about the income limit that will be put in place once the ESRD 1915(i) is operational and the potential impact on access to coverage.

### **9.2 Tribal Consultation**

The Medical Director of the Pokagon Band of Potawatomi was notified in writing on May 1, 2015 of the development of the waiver application and asked to submit comments or questions directly to FSSA by May 31, 2015. FSSA provided an opportunity for an in-person meeting to discuss the waiver and Tribal impact. FSSA received no response or comments in response to the notice of Tribal comment period.

## **9.2 State Response**

The State appreciates the feedback received on the waiver and the support expressed by commenters. The State made no changes or modifications to the waiver following the public comment period. As previously described, only one comment suggested changes to the eligibility requirements. The State seeks to maintain the guidelines that have been in place since the original authorization of this program in May 2014 and therefore has not modified this request.

## **Section 10: Demonstration Administration**

Name and Title: Joe Moser, Medicaid Director

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Email Address: [joe.moser@fssa.in.gov](mailto:joe.moser@fssa.in.gov)

## Appendix A: Public Notice

### **Indiana Family and Social Services Administration Notice of Public Hearing and Public Comment Period**

Pursuant to 42 CFR Part 431.408, notice is hereby given that: **(1) on Thursday, May 28, 2015, at 1:00 p.m., at the Indiana State House, Room 156A, 200 West Washington Street, Indianapolis, Indiana 46204-2786; and (2) on Tuesday, June 2, 2015, at 1:00 p.m., Indiana Government Center South, Conference Center Room 19, 402 West Washington Street, Indianapolis, Indiana 46204-2744,** the Indiana Family and Social Services Administration (“FSSA”) will hold public hearings to accept public comment on a proposed End Stage Renal Disease 1115 demonstration waiver (“ESRD Waiver”) application. The primary purpose of the ESRD waiver is to preserve Medicaid coverage for individuals with End Stage Renal Disease (“ESRD”) who would otherwise be unable to access kidney transplant services.

Both public hearings will be accessible via web conference at <http://webinar.isl.in.gov/fssain/>. In addition, FSSA will present the ESRD Waiver to the Medicaid Advisory Committee on Thursday, May 21, 2015 at 1:00 p.m., at the Indiana Government Center South, Conference Center Room B, 402 West Washington Street, Indianapolis, Indiana 46204-2744.

This notice also serves to open the **30-day public comment period, which closes June 19, 2015 at 4:30 p.m.**

#### **PROGRAM DESCRIPTION, GOALS & OBJECTIVES**

In 2014, Indiana Medicaid changed the disability determination process and began accepting the Social Security Administration (“SSA”) disability determinations as Medicaid determinations. This eliminated the more stringent state requirements previously in place and the spend-down program. Additionally, Indiana increased the income eligibility threshold for the aged, blind and disabled and the Medicare Savings Program. Individuals who lost access to Medicaid coverage through the spend-down program were transitioned to other coverage options including the Federal Health Insurance Marketplace and Medicare supplemental plans.

Such changes put approximately 350 individuals with ESRD at risk of losing access to kidney transplant services. These individuals were dually eligible for Medicare and Medicaid, under age 65 and with income over 150 percent of the Federal Poverty Level (“FPL”). Due to their Medicare enrollment, Federal law prevented them from purchasing insurance coverage through the Marketplace. Additionally, because Medicare supplemental plans are not guaranteed issue in Indiana for individuals under age 65, these individuals were also unable to receive supplemental coverage through Medicare options.

Thus, under applicable policies, individuals with ESRD who are unable to demonstrate the ability to pay for services are ineligible for kidney transplants and transplant services. The lack of supplemental coverage meant these individuals would be moved to “inactive” on hospital transplant lists and would be ineligible for a kidney transplant. Without a kidney transplant, individuals with ESRD would likely need to continue renal dialysis indefinitely.



In May 2014, the Centers for Medicare and Medicaid Services (“CMS”) authorized continued coverage for approximately 350 of such individuals on a temporary basis through emergency 1115 waiver authority. Eligible individuals included those with ESRD who met the eligibility criteria that were in effect prior to the State’s change in the disability determination process, including the use of a spend-down. Since this authorization, the State has been developing a program to provide Medicaid eligibility to individuals with ESRD through 1915(i) State Plan authority. The State is seeking an extension of the prior 1115 waiver authority to provide continued Medicaid coverage, and therefore access to kidney transplant services, for this population until the 1915(i) program is fully operational. Initial enrollment for the 1915(i) program will begin July 1, 2016 and all ESRD Waiver enrollees who qualify for the 1915(i) will be transitioned by October 1, 2016.

Additionally, the State is seeking waiver authority to provide continued Medicaid coverage to individuals who are enrolled under the ESRD Waiver but are ineligible to transition to the 1915(i) program once it is fully operational. This will include individuals who either do not meet the clinical criteria of the program or have income in excess of 300 percent FPL. Beginning July 1, 2016, when the 1915(i) program becomes operational, the State will no longer accept new enrollees under the ESRD Waiver. At such time, all new Medicaid applicants with ESRD that are otherwise Medicaid ineligible may apply for coverage through the ESRD 1915(i) program.

## **ELIGIBILITY**

There are currently two distinct eligibility groups enrolled and receiving coverage through the ESRD Waiver. The first group includes individuals with ESRD who were enrolled in Medicaid Spend Down and Medicare as of May 31, 2014, had income over 150 percent FPL, and were losing access to spend down due to Indiana’s transition to a 1634 state. This group was subject to a spend down requirement but did not have an upper income limit. The waiver requests authority to continue coverage of these individuals to prevent disruption in their care.

The second group includes current enrollees and new applicants who were not enrolled in Medicaid Spend Down and Medicare as of May 31, 2014, and who:

- have Medicare;
- are diagnosed with ESRD;
- have income between 150% and 300% of the FPL;
- incur medical expenses which bring their income to the Supplemental Security Income federal benefit rate (“SSI/FBR”);
- have resources less than \$1,500 for an individual or \$2,250 for a couple;
- are not institutionalized; and
- meet all other Medicaid eligibility criteria, including but not limited to, state residency and citizenship.

As previously described, effective July 1, 2016, no new ESRD Waiver enrollees will be accepted. Effective July 1, 2016, individuals with ESRD who are otherwise Medicaid ineligible may apply for coverage through the ESRD 1915(i) program.

## **ENROLLMENT & FISCAL PROJECTIONS**

The ESRD Waiver is projected to provide coverage to approximately 350 individuals between January and October 2016, the time period prior to full implementation of the 1915(i) program. It is projected once the 1915(i) program is implemented, approximately 50 individuals will remain covered by the ESRD Waiver. As of October 2016, no new enrollees will be permitted on the ESRD Waiver, and individuals with ESRD may seek Medicaid coverage through the 1915(i) program.

Over the three-year demonstration period (2016-2018), the program is expected to cost \$430,764 in state funds, and \$1,289,713 in total combined state and federal funds. The table below provides the estimated state and federal costs divided by year.

**Estimated State and Federal Program Costs 2016-2018 (in millions)**

Calendar Year	Demonstration Year	Federal Costs	State Costs	Total
2016	1	\$650,533	\$326,243	\$976,777
2017	2	\$117,087	\$58,719	\$175,807
2018	3	\$91,328	\$45,801	\$137,129

## **BENEFITS AND HEALTH CARE DELIVERY SYSTEM**

Individuals eligible under the ESRD Waiver will be enrolled in a fee-for-service delivery system. They will be eligible for all medically necessary Medicaid covered services after meeting an ESRD liability, as authorized under the State's original 1115 expenditure authority in May 2014 and extended in November 2014. The liability will be calculated using spend-down methodology based on incurred medical costs. This liability operates similarly to a deductible. Individuals who incur medical expenses that bring their income to the SSI/FBR will have no further incurred costs subject to the ESRD liability.

## **COST SHARING REQUIREMENTS**

Once the enrollee meets the ESRD liability, the enrollee will be eligible for full Medicaid benefits and will be subject to regular Medicaid State Plan cost-sharing as outlined below.

Service	Co-Payment Amount	
Transportation	\$0.50 each one-way trip	Transportation services that pay \$10 or less
	\$1 each one-way trip	Transportation services that pay \$10.01 to \$50
	\$2 each one-way trip	Transportation services that pay \$50.01 or more
Pharmacy	\$3	
Non-Emergency Use of the Emergency Department	\$3	

## **HYPOTHESES & EVALUATION**

The ESRD Waiver will investigate the following hypotheses:

#	Hypothesis	Evaluation Measures
1	ESRD Waiver enrollees will maintain access to kidney transplants.	<ul style="list-style-type: none"><li>• Track waiver enrollment.</li><li>• Track waiver enrollees who are on the transplant list.</li><li>• Track how many on the waiver leave the transplant list.</li><li>• Determine the reason why individuals on the demonstration left the transplant list.</li></ul>
2	ESRD Waiver enrollees will report greater quality of life as a result of the supplemental coverage and ongoing access to the kidney transplant list.	<ul style="list-style-type: none"><li>• Track responses from enrollee satisfaction surveys.</li></ul>

## WAIVER & EXPENDITURE AUTHORITIES

The following includes a list of waiver and expenditure authorities for the ESRD Waiver:

### 1. Amount, Duration, Scope

Section 1902(a)(10)(B)

To the extent necessary to enable the State to provide State Plan benefits only after an individual meets a monthly spend down.

### 2. Cost-Sharing

Section 1902(a)(14) related to provisions in section 1916

To the extent necessary to enable the State to impose a spend down methodology based on incurred medical costs. Individuals who incur medical expenses that bring their income to the SSI FBR will have no further incurred costs subject to the ESRD liability.

### 3. Comparability

Section 192(a)(17)

To the extent necessary to enable the State to apply a spend down methodology based on incurred medical costs.

## REVIEW OF DOCUMENTS AND SUBMISSION OF COMMENTS

The proposed ESRD Waiver documents are available for public review at the FSSA, Office of General Counsel, 402 W. Washington Street, Room W451, Indianapolis, Indiana 46204. The documents may also be viewed online at <http://www.in.gov/fssa/4898.htm>.

Written comments regarding the ESRD Waiver may be sent to the FSSA via mail at 402 West Washington Street, Room W374, Indianapolis, Indiana 46204, Attention: Amber Swartzell or via electronic mail at - [amber.swartzell@fssa.in.gov](mailto:amber.swartzell@fssa.in.gov) through June 19, 2015.

FSSA will publish a summary of the written comments, once compiled, for public review at <http://www.in.gov/fssa/4898.htm>.

## Appendix B: Tribal Consultation

### **Indiana Family and Social Services Administration Notice of Tribal Comment Period for Indiana End Stage Renal Disease 1115 Waiver Submission May 1, 2015**

Notice is hereby given to the Pokagon Band of the Potawatomi that the Indiana Family and Social Services Administration (FSSA) will be submitting an 1115 waiver renewal to the Centers for Medicare and Medicaid Services (CMS) to preserve Medicaid coverage for individuals with end stage renal disease (ESRD) who would otherwise be unable to access kidney transplant services.

This notice also serves to open the **30-day tribal comment period, which closes May 31, 2015 at 5:00 pm.**

#### **OVERVIEW**

In 2014, Indiana Medicaid changed the disability determination process and began accepting the Social Security Administration (SSA) disability determinations as Medicaid determinations. This eliminated the more stringent state requirements previously in place and eliminated the unpopular spend-down program. Additionally, Indiana increased the income eligibility threshold for the aged, blind and disabled and the Medicare Savings Program, which provides Medicare cost sharing assistance. Individuals that lost access to Medicaid coverage through the spend-down program were transitioned to other coverage options including the federal Health Insurance Marketplace and Medicare supplemental plans.

With this change, there were approximately 350 individuals with ESRD at risk of losing access to kidney transplant services. These individuals were dually eligible for Medicare and Medicaid, under age 65 and with income over 150 percent FPL. Due to their Medicare enrollment, federal law prevented them from purchasing insurance coverage through the Marketplace. Additionally, because Medicare supplemental plans are not guaranteed issue in Indiana for individuals under age 65, these individuals were also unable to receive supplemental coverage through Medicare options.

With only coverage through Medicare, due to the financial criteria required for placement on the kidney transplant list, individuals with ESRD who are unable to demonstrate the ability to pay for services are ineligible for kidney transplants. The lack of supplemental coverage meant these individuals would be moved to “inactive” on hospital transplant lists and would be ineligible for a kidney transplant. Without a kidney transplant, individuals with ESRD must continue dialysis indefinitely. This results in diminished quality of life, increased unemployment and potential loss of life for impacted enrollees.

In May 2014, continued coverage for these approximately 350 individuals was approved by CMS on a temporary basis through emergency 1115 waiver authority. Specifically, CMS authorized continued coverage for individuals with ESRD who meet the eligibility criteria that were in effect prior to the State’s change in the disability determination process, including the use of a spend-down. Since this authorization, the State has been working to develop a program to provide Medicaid eligibility to

individuals with ESRD through 1915(i) State Plan authority. The State is seeking continued 1115 waiver authority to provide continued Medicaid coverage for this population until the 1915(i) program is fully operational. This authority will permit the State to provide Medicaid eligibility to individuals meeting the following criteria:

- Have Medicare
- Are diagnosed with ESRD
- Have income between 150% and 300% of the federal poverty level
- Incur medical expenses which bring their income to the Supplemental Security Income (SSI) federal benefit rate (FBR)
- Have resources less than \$1,500 for an individual or \$2,250 for a couple
- Are not institutionalized
- Meets all other Medicaid eligibility criteria, including but not limited to, state residency and citizenship

Additionally, the State is seeking waiver authority to provide continued Medicaid coverage to individuals who are enrolled under the 1115 waiver authority but are ineligible to transition to the 1915(i) program once it is fully operational. This will include individuals who either do not meet the clinical criteria of the program or have income in excess of 300 percent FPL. Once the 1915(i) program is fully operational, the State will no longer accept new enrollees under the 1115 demonstration. At such time, all new Medicaid applicants with ESRD that are otherwise Medicaid ineligible may apply for coverage through the ESRD 1915(i) program.

## **BENEFITS AND HEALTH CARE DELIVERY SYSTEM**

Individuals eligible under the ESRD 1115 waiver will be enrolled in a fee-for-service delivery system. They will be eligible for all medically necessary Medicaid covered services after meeting an ESRD liability, as authorized under the State's original 1115 expenditure authority in May 2014 and extended in November 2014. The liability will be calculated using spend-down methodology based on incurred medical costs. This liability operates similarly to a deductible. Individuals that incur medical expenses that bring their income to the Supplemental Security Income (SSI) federal benefit rate (FBR) will have no further incurred costs subject to the ESRD liability.

## **COST SHARING REQUIREMENTS**

Once the ESRD liability is met, enrollees will be eligible for full Medicaid benefits and will be subject to cost-sharing as outlined in Table 1.

Table 1: Copayments

Service	Co-Payment Amount	
Transportation	\$0.50 each one-way trip	Transportation services that pay \$10 or less
	\$1 each one-way trip	Transportation services that pay \$10.01 to \$50

	\$2 each one-way trip	Transportation services that pay \$50.01 or more
Pharmacy	\$3	
Non-Emergency Use of the ER	\$3	

#### **TRIBAL IMPACT**

Members of the Pokagon Band of the Potawatomi located in Indiana who meet the eligibility criteria of the ESRD waiver, as described above, will be eligible for enrollment in the waiver. They will be enrolled in the fee-for-service delivery system and once they meet their ESRD liability, they will be exempt from co-payment requirements.

#### **SUBMISSION OF COMMENTS**

Written comments regarding the ESRD 1115 Waiver may be sent to the FSSA via mail at 402 West Washington Street, Room W374, Indianapolis, Indiana 46204, Attention: Angie Amos or via electronic mail at [angela.amos@fssa.in.gov](mailto:angela.amos@fssa.in.gov) **through May 31, 2015**. Additionally, we would be happy to schedule a phone or in-person consultation to discuss the program in further detail.